

**MINUTES OF HOUSE EDUCATION
STANDING COMMITTEE**

February 18, 2005

Room W135, West Office Building, State Capitol Complex

MEMBERS PRESENT: Rep. Margaret Dayton, Chair
Rep. LaVar Christensen, Vice Chair
Rep. Duane Bourdeaux
Rep. John Dougall
Rep. James A. Ferrin
Rep. James R. Gowans
Rep. David L. Hogue
Rep. Gregory H. Hughes
Rep. Bradley T. Johnson
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. LaWanna Shurtliff
Rep. Stephen Urquhart

MEMBERS ABSENT: Rep. Ron Bigelow
Rep. Kory M. Holdaway

STAFF PRESENT: Constance C. Steffen Policy Analyst
Cindy Baker, Committee Secretary
Dee S Larsen, Associate General Counsel

Note: List of visitors and copy of handouts are filed with committee minutes.

Chair Dayton called the meeting to order at 4:52 p.m. and welcomed committee members.

MOTION: Rep. Shurtliff moved to approve the minutes of February 16, 2005. The motion passed unanimously with Representatives Hogue, Hughes and Urquhart absent for the vote.

H.B. 39 2nd Sub. Tuition Tax Credits (J. Ferrin)

Rep. Ferrin, assisted by Rep. Mascaro, introduced the bill which provides a tax credit for tuition expenses for private school education.

The following spoke in opposition to the bill:

Pat Rusk, Utah Education Association

JoAnn Nielson, Utah PTA

Patrick Ogden, State Board and Office of Education

Thomas E. Anderson, Counsel for Utah School Board of Association

Shirley Arnett, American Federation of Teachers

4. Page 4, Lines 92 through 93:

92 (ii) "Private school" does not include a school that ;
(A) has an enrollment of fewer than 25
93 students ~~[[.]]~~ ; or
(B) operates in a residence.

5. Page 4, Lines 102 through 106:

102 (C) who ~~[[was not enrolled at a private school on January 1, 2005, except as~~
~~provided in~~
103 ~~Subsection (1)(e)(ii).~~
104 ~~—(ii) Subsection (1)(e)(i)(C) does not apply if the adjusted gross income of the~~
~~taxpayer~~
105 ~~who paid or incurred the private school tuition expenses is less than or equal to~~
~~100% of the~~
106 ~~income eligibility guideline as defined in Subsection (1)(c).]]~~ meets one or more
of the following criteria:
(I) the individual was born after September 1, 1999;
(II) the individual was enrolled as a full-time student in a Utah public school on
January 1, 2005;
(III) the individual was not a Utah resident on January 1, 2005; or
(IV) the individual is a private school student for whom a taxpayer has paid or
incurred the tuition expenses, and the adjusted gross income of the taxpayer is less
than or equal to 100% of the income eligibility guideline as defined in Subsection
(1)(c).
(f)(i) "Tuition expenses" means amounts charged for attending a private school
minus any amounts paid for with scholarship monies received from the state.
(ii) "Tuition expenses" do not include fees for extracurricular activities or
transportation to the private school.

6. Page 6, Lines 172 through 180:

172 (5) The tax credit provided for in this section ~~[[may not be carried forward or~~
~~carried~~
173 ~~back.~~
174 ~~—(6) (a) Only one taxpayer may claim a refundable tax credit for each qualifying~~

- student
175 each taxable year.
176 —(b) The taxpayer who claims a personal exemption for the qualifying student
shall have
177 the right to claim the refundable tax credit, unless that taxpayer authorizes another
person to
178 claim the refundable tax credit.
179 —(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
Act, the
180 commission shall make rules to administer Subsections (6)(a) and (6)(b)]] :
(a) may be claimed only by the taxpayer who:
(i) is the parent or legal guardian of the qualifying student; and
(ii) claims a personal exemption for the qualifying student; and
(b) may not be carried forward or carried back. .

The motion passed unanimously with Representative Hogue absent for the vote.

MOTION: Rep. Christensen moved to amend the bill as follows:

1. *Page 2, Lines 32 through 33:*
 - 32 ▶ ~~[[\$1,500,000]]~~ \$10,000,000 from the General Fund for fiscal year
 2005-06 only, to the State Board
 - 33 of Education.

2. *Page 2, Lines 36 through 37:*
 - 36 Utah Code Sections Affected:
AMENDS:
63-55b-153, as last amended by Chapters 90, 251 and 328, Laws of Utah 2004
63-55b-159, as last amended by Chapter 90, Laws of Utah 2004
 - 37 ENACTS:

3. *Page 2, Lines 54 through 55:*
 - 54 (1) There is appropriated ~~[[\$1,500,000]]~~ \$10,000,000 from the General
 Fund, for fiscal year 2005-06
 - 55 only, to the State Board of Education to be distributed to school districts that demonstrate

4. Page 3, Line 61:

61 appropriated under Subsection (1).

(4) As prioritized by the Audit Subcommittee, the legislative auditor general shall, at the conclusion of the traditional 2006-07 school year, conduct a comprehensive audit, examination, and review of:

(a) the tuition tax credit under Section 59-10-136; and

(b) the appropriation for school districts affected by tuition tax credits under Section 53A-17a-152.

5. Page 4, Line 107 through Page 5, Line 119:

107 (2) The Legislature finds:

108 (a) ~~[[parents are best equipped to make decisions for their children, including the~~

109 ~~educational setting that will best serve the interests and educational needs of their children-]]~~ =

the state system of public education as established and maintained pursuant to the state Constitution is charged with making available a free public education for all children of the state ;

(b) an informed and educated citizenry is essential to the successful perpetuation of representative democracy from one generation to the next;

(c) there are limits to the total tax burden that the state's taxpayers may reasonably absorb to fund growth in student enrollment and other demands on the state's public education system;

(d) to foster the education of all children in the state and to maximize the available state resources for the benefit of the state's public education system, a limited tax credit for private school tuition is likely to have a positive net fiscal impact;

(e) if a positive net fiscal impact does not occur, a mitigation fund would help school districts deal with any potential negative impact;

(f) enacting a tax credit for private school tuition for a limited time would allow the state to determine its fiscal impact;

110 ~~[[~~(b)~~]]~~ (g) children, parents, and families are the primary beneficiaries of the tuition tax credit

111 authorized in this section and any benefit to private schools, sectarian or otherwise, is

purely
112 incidental; and
113 ~~[(c)]~~ (h) the tuition tax credit authorized in this section:
114 (i) is enacted for the valid secular purpose of tailoring a student's education to that
115 student's specific needs;
116 (ii) is neutral with respect to religion; and
117 (iii) provides tax relief to a broad class of persons ~~[[who are then able to direct~~
their
118 resources to religious and secular schools solely as a result of their genuine and
independent
119 private choices.]] .

6. Page 6, Line 180 through Page 7, Line 181: commission shall make rules to
administer Subsections (6)(a) and
(6)(b).

Section 4. Section 63-55B-153 is amended to read:

63-55b-153. Repeal dates -- Titles 53, 53A, and 53B.

- (1) Subsection 53-3-205(9)(a)(i)(D) is repealed July 1, 2007.
- (2) Subsection 53-3-804(2)(g) is repealed July 1, 2007.
- (3) Section 53A-1-403.5 is repealed July 1, 2007.
- (4) Subsection 53A-1a-511(7)(c) is repealed July 1, 2007.
- (5) Section 53A-3-702 is repealed July 1, 2008.

(6) Section 53A-11-102.3 is repealed July 1, 2008.

(7) Section 53A-17a-152 is repealed July 1, 2008.

~~[(6)]~~ 8 Section 53B-8-104.5 is repealed July 1, 2009.

Section 5. Section 63-55B-159 is amended to read:

63-55b-159. Repeal dates -- Title 59.

(1) Section 59-9-101.3 is repealed January 1, 2005, and the Labor Commission
may not impose an assessment under Section 59-9-101.3 after December 31, 2004.

(2) Section 59-10-136 is repealed July 1, 2008.

Section ~~[[4]]~~ 6 . Retrospective operation.

181

SUBSTITUTE

MOTION: Rep. Urquart moved to pass the bill out favorably.

MOTION: Rep. Dougall moved to call for the question. The motion passed with
Representatives Bourdeaux, Gowans, Hogue and Christensen voting in
opposition.

Minutes of House Education Committee

February 18, 2005

Page 7

A vote was taken on the motion to pass the bill out favorably. The motion passed with Representatives Gowans, Shurtliff, Moss, Bourdeaux, Hogue and Christensen voting in opposition.

MOTION: Rep. Dougall moved to adjourn. The motion passed unanimously.

Chair Dayton adjourned the meeting at 6:12 p.m.

Rep. Margaret Dayton, Chair